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10 ERNIE BALL, INC., a California  
11 Corporation

12 **UNITED STATES DISTRICT COURT**  
13 **CENTRAL DISTRICT OF CALIFORNIA**

14 ERNIE BALL, INC., a California  
15 Corporation,

16 Plaintiff,

17 v.

18 EARVANA, LLC, a California  
19 LLC,

20 Defendants.

Case No. 5:06-cv-00384-JHN-OPx

Assigned to the Honorable Jacqueline  
H. Nguyen - Magistrate Judge:  
Honorable Oswald Parada

**JUDGMENT AND PERMANENT  
INJUNCTION**

21 EARVANA, LLC, a California  
22 LLC;

23 Counterclaimant,

24 v.

25 ERNIE BALL, INC., a California  
26 Corporation,

27 Counterclaim  
28 Defendant.

**JUDGMENT**

The Court Trial in this matter was conducted on November 2nd and 3rd of 2010, in Courtroom 790 of the above-entitled Court located at 255 East Temple Street, Los Angeles, California, the Honorable Jacqueline H. Nguyen presiding. The Court previously granted Plaintiff Ernie Ball, Inc.'s motion for partial summary judgment in this matter by order of 7/20/2009. The Court granted in part a Motion for Reconsideration of the Partial Summary Judgment by order of 9/17/2009.

Pleadings, evidence, and argument having been presented by the parties, Partial summary Judgment having been entered, and the cause having been submitted for decision after trial, and the Court having taken the matter under submission,

IT IS ORDERED, ADJUDGED AND DECREED that:

1. Judgment is hereby entered in favor of Plaintiff, Ernie Ball, Inc. for patent infringement of the Ernie Ball 6,433,264 patent, and against Defendant Earvana LLC on all Counterclaims.

2. Plaintiff is awarded patent infringement damages in the amount of \$247,525.20.

3. Plaintiff is awarded prejudgment interest in the amount of \$18,046.67.

4. Defendant Earvana LLC, and its officers, agents, servants, employees, and all persons acting under their direction, control, permission, or authority, or any of them, and all persons acting in concert therewith, are permanently enjoined from making, using, selling, advertising, licensing,

1 distributing, transferring, offering for sale to any distributor, wholesaler,  
 2 retailer, manufacturer, or any other person and/or entity in the United  
 3 States, or importing into the United States the following:

4 a) Compensated nuts for guitar with intonation points  
 5 in a non-sinusoidal configuration [intonation points not falling on an  
 6 arc or curve], including all the Earvana OEM style compensated nuts,  
 7 including:

8 (1) Earvana OEM style compensated nuts used  
 9 on production ESP guitar models. This includes but is not limited to:

10 -the ESP Deluxe Series guitars

11 -the 400 and 500 and 1000 Level LTD guitars:

12 (including LTD/F 400; LTD/EX-400; LTD/EX-401;  
 13 LTD/EX Graphics; LTD/H-401; LTD/H-500; LTD EC  
 14 500; LTD EC clockwork; LTD EC 500; LTD EC-401;  
 15 LTD AX 400; LTD AX 401; LTD MH 400; LTD MH-  
 16 401; LTD MH-417; LTDMHB 400; LTD MHB-401.

17 -the 1000 Level ESP Guitars (Including LTD/MH-  
 18 1000; LTD H-1001; LTD EC-1000;

19 -the ESP Baritones;

20 and including the following nuts:

21 - Earvana ESP style 7 string nut

22 - Earvana ESP style nut

23 -Earvana ESP Baritone Nuts.

24 -Earvana Floyd metal shelf nut

- Earvana Fender LSR OEM style nuts
- Earvana Gibson OEM style acoustic and electric style
- Earvana 42mm Drop-in-Nuts
- Earvana Gibson Style Drop-in-Nuts
- Earvana ESP 7 string shelf nuts
- Earvana Esp Acoustic nuts
- Earvana Fender drop-in-shelf nuts; and

(b) Guitars or other product with the above referenced compensated nuts installed.

5. The Court finds in favor of the Defendant on Plaintiff's Unfair Competition Claims.

6. Plaintiffs are not entitled to any award of attorney's fees;

7. Plaintiff is the prevailing party and is entitled to costs of suit.

DATED: January 05, 2011

  
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U.S. DISTRICT COURT JUDGE  
CENTRAL DISTRICT OF CALIFORNIA